Supreme Court, U.S.
FILED
081505 MAY 26 2009
OFFICE OF THE CLERK

No._____

In The
Supreme Court of the United States

Calvin P. Roach
Petitioner, Pro Se

v.

Terri L. Roach
Respondent
Attorney for Mark L. Williams
Law Office of Mark L. Williams
1071 N, Grand Avenue, #106
Nogales, AZ 85621

On Petition For A Writ of Certiorari
To Superior Court of Arizona
For The County of Cochise

Calvin P. Roach
1777 Calle Ventana
Sierra Vista, AZ 85635
(520) 678-1725

QUESTION PRESENTED

Whether or not the State's Court Decisions and Orders are void and based off of tyranny and / or unconstitutional acts where removal of the judges are appropriate by the federal government and public laws or by citizens when the government is unwillingness or prevented by law under authority of the US Constitution, 2nd Amendments, ***District of Columbia v. Heller***, 554 U.S. 290 (2008) and (No. 07-290) 478 F. 3d 370, affirmed.

List of Parties to the Proceedings

Judge Charles Irwin
Judge James Conlongue

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Statutes and Rules

18 USC 1962 2
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US Constitution, 14th amendment,
Equal Protection Clause 8
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OPINIONS BELOW

The Arizona Supreme Court denied Motion for Review

The Courts of Appeal denied Motion for Reconsideration

The Courts of Appeal denied appeal stating that it is not appealable.

Cochise County Superior Court denied Change of Judge

Cochise County Superior Court Order denied Transfer to Juvenile Court

JURISDICTION

The United States Supreme Court has jurisdiction of this case under the United States Constitution and Tile 28 1251,

> "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the

> Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States"

The State Court has decided an important issue that conflicts with of federal decision ***District of Columbia v. Heller***, 554 U.S. 290 (2008) that should be decided by this court. Court Orders not removing Judge Irwin from the case and not transferring case to juvenile should be reviewed.

STATUTORY PROVISION INVOLVED

This case involves the rights to free state exercising US Constitutional 2nd amendment rights against tyrants when the federal government fails to remove the tyrants by law or the government is unwilling, **District of Columbia v. Heller**, **554 U.S. 290 (2008)**, government willful disregard to public safety, allowing child neglect, **ARS 8-201**, and **ARS 13-3620** also government racketeering involvement assisting respondent in extortion, **18 USC 1962**.

STATEMENT

July 25, 2006, I filed for change of custody by the Court to modify its December 2, 2001 decree that awarded my ex-wife sole custody of care and control of my son, Jarod.

In the hearing held January 26, 2007, I informed to the judge that Jarod teeth is going bad and don't know when he last went to the dentist. The judge elected to speak to him and seen his teeth. On February 27, 2007, the judge release order and did not to change custody because I did not offer any evidence of the Respondent's allege failure to provide any necessary medical and dental care for my son and cited **Canty v. Canty, 178 Ariz. 448, 874 P.2d 1000 (1994)**, to require modification in the best interest of the child. I filed an appeal but the appeal was not timely filed. In May, 2007, my son broke silence and told me where his new dental clinic was. I visited and filed for the 3rd time since the Judge Decree in February 2007 to Modify Change of Custody. In the January 29, 2008 hearing, The Court accepted into evidence my son's dental records that shows that he was not taken to the dentist in 2001, 2002, 2004, 2005, 2006, and once in 2007 (APP 30-31), four months after I told the Court that my son had to go to the dentist in January 2007. The Court also accepted photos of my son teeth into evidence (APP 32). That hearing ended when the Judge tried to force me to accept his agreement that my son will stay with me until school ends then return to his mother as we arguably disagreed and I told him that I am filing in open court a Motion to Recuse him. Judge Irwin told me that it was late and to file the

next day. I filed January 31 to remove the judge from my case.

On January 31, 2008, I filed Motion to Recuse because the judge stated information about allowing the respondent and her attorney not abide by Family Law, a former mutual friend of the Judge and mines told me that he was telling the judge that I was one of the reasons the judge did not get reelected in 2004, as well as her attorney filing documents that stated that the letter that Terri sent me stated she let's my son live with me only until the end of the school year but that is not stated nor reference in the letter. On February 6, 2008, Judge Irwin released minute entry of his decision of the hearing.

On March 14, 2008, I filed for a Change of Venue to transfer this case to Juvenile Court because at the January hearing the Judge has accepted into evidence official dental records to show that the respondent hadn't taken my son to the dentist in 2001, 2002, 2004, 2005, 2006, and only once in 2007 and that was five months after I brought the neglect to the Court's attention and she did not take Jarod back to get his teeth repaired nor did she tell anyone of his appointment.

On May 14, 2008, Judge Conlogue denied Motion to Recuse and May 19, 2008, Judge Irwin denied Motion for Change of Venue to Juvenile Court. I timely appealed and the Court of Appeals denied the appeal

stating that this is not appealable but did not cite any legal authority or Rule of Court. I filed Motion for Review to Arizona Supreme Court and it was denied, an unsigned order.

REASONS FOR GRANTING PETITION

I

Judge Irwin intentionally failed to abide by federal and state laws and regulations and his misconduct reached the level of tyranny. Judge Irwin's order stated that I did not submit proof of dental neglect; however, I informed the judge that my son's teeth decaying and the judge elected to speak to my son. The judge had seen the decay and ignored ruled against me (APP 32). When I discovered that the cause of my son's teeth decay was due to lack of adequate care (APP 30-35), the judge ruled he did not see irreparable harm because I took care of my son. The judge intentionally ignored my son's poor dental conditions which made it harder for to provide irreparable harm burden of proof in later hearings for change of custody. Judge Irwin intentionally defaced the US Constitution and the people has not only a right but an obligation to protect themselves and families against usurpations of government, **District of Columbia v. Heller**, 554 U.S. 290 (2008).

"To preserve this privilege, and to secure to the people the ability to op-pose themselves in military force against the usurpations of government, as well as against enemies from without, that government is forbidden by any law or proceeding to invade

or destroy the right to keep and bear arms."

The judge used the Court Order as a legal instrument for deception and obstruction of justice; thus, he preventing this county to be a free state. This insurrection by the government does not add any benefits to the government nor the nation; however, it gives citizens the right to form a militia of any size to destroy individuals hired by the government who commits tyranny when the government does not remove the individual, **District of Columbia v. Heller**, 554 U.S. 290 (2008).

> "There are many reasons why the militia was thought to be "necessary to the security of a free state." See 3 Story §1890. First, of course, it is useful in repelling invasions and suppressing insurrections. Second, it renders large standing armies unnecessary—an argument that Alexander Hamilton made in favor of federal control over the militia. The Federalist No. 29, pp. 226, 227 (B. Wright ed. 1961) (A. Hamilton). Third, when the able-bodied men of a nation are trained in arms and organized, they are better able to resist tyranny."

The American Dental Academy of Pediatric defines Dental Neglect as (APP 26), "the willful failure of parent or guardian to seek and follow through with treatment

necessary to ensure a level of oral health essential for adequate function and freedom from pain and infection."

Terri is under court order to provide dental and medical care to my son and portions of my child support is for her to provide medical and dental insurance and care to my son. The fact that she is upset with me does not justify reasons to neglect my son's dental needs. Because the judge refuse to hold her to the Court Order or to provide medical/dental care to my son, the judge joins my ex-wife unlawful acts, denying dental and medical care to a minor. Now, money added to child support for medical and dental is actually an income supplement such as welfare. The Judge lacks legislative authority under the US Constitution and is obligated under **ARS 13-3620** to act. Children's dental care should not be limited to only the Eastern parts of the union, instead all of the union to include Arizona. Arizona mother's are to be treated as mothers in Florida for the same or similar offenses (App 36) and a child from Arizona should receive the same legal care as a child from Florida. The equal right clause of the **US Constitution, 14th Amendment** guarantees equal treatment.

During the hearing, Judge Irwin made many attempts to try to get me to agree to his terms and I refused. The agreement was that he wanted my son to stay with me until school

ends and he will decide on custody if I could bring a statement from the dentist saying that those dental issues were harmful. I disagreed because I did not come to court to reach an agreement with the judge, nor for the judge to downplay the seriousness of dental neglect (APP 32). Also, my intent was for custody to be changed so that I can ensure my son receive the medical and dental treatment needed. During the hearing, I motion that the judge recuse himself after a lot of showing biasness and disregard to law and the best interest of the child. The judge minute entry says that there was a stipulation agreement between the opposing party and myself. I there was an agreement, I would have never filed a motion to recuse the judge. For the judge to rule that it is in the best interest of a child to remain in an environment where his dental needs have been neglected to the point that his teeth start decaying lacks common sense and violates both Federal and State laws and regulations.

Judge Irwin has is ineffective as a judge. Judge Irwin is a victim of his arrogance, where as he is now trying to make up for his past. Having admitted having alcohol in the chambers as well as harassing women by making sexual comments, **In re Irwin, JC00-0003, November 29, 2000.** Judge Irwin, to show that he is not sexist, is now ruling for women with disregard to children's

health and the best interest of the child.

II

Judge Colongue is either incompetent or is a victim of the unconstitutional breeding nest at Cochise County Superior Court. I will first address his incompetent. He was assigned to this case to hear the Motion to Recuse Judge Irwin. I filed the motion to recuse Judge Irwin and filed to transfer this case to juvenile court under **ARS 8-201**. Judge Colongue response was that I didn't present evidence to my case; however, evidence is in Court Records that I reference concerning my son's lack of dental care. He also stated that I did not file a response. That is correct because it does not make any sense to file a response to my own complaint, **ARCP 16.2(b)**; however, if the opposing party would have responded to either of my motions – I would have filed a reply.

Arizona Superior Court for the County of Cochise is a nesting ground for unconstitutional acts. The conduct of Judge Irwin during this case and the root of his sanction are just the tip of the problems. Judge Hoggart, another judge who was on and off of this case twice, had ruled in a divorce case that a little girl is better being with her mother in a drug environment instead of being with her father in an environment clear of drugs, **Diezi v. Diezi, 201 Ariz. 524, 38 P.3d 1189.**

> **"And, because that purpose is clear, it must be equally clear that a drug conviction entered even closer to the date of a custody hearing is relevant to a custody determination. Moreover, *527 the language of § 25-403(L) explicitly underscores the gravity of a recent drug conviction as a factor in determining custody."**

Judge Hoggart, when I invited him with Justice McGregor of ArizonaSupreme Court to explain his conduct and why she appointed him as presiding judge. Judge Hoggart sealed the letter. This can only be seen as an attempt to cover up tyranny because he lacks legislative power even though he attempted to legislate in Diezi v. Diezi, 201 Ariz. 524, 38 P.3d 1189.

> **"We **1192 do not agree, however, that the trial court was free to disregard the legislative intent and public policy evident in (K), as it apparently did. Clearly, the legislature intended to give notice to a convicted parent that a trial court must consider any drug conviction entered within twelve months prior to the filing of a request to change custody."**

Judge Conlogue actions, closing his eyes to judicial misconduct and child neglect and writing a misleading ORDER is cause for permanent removal. He is no better than

Judge Maloney and the other judges who were convicted in Operation Greylord, who closed their eyes to bribery. **United States of America v. Thomas J. Maloney, 71 F.3d 645.**

The fact that the State has primary responsibility to rule in family law does not circumvent the federal government from intervening and when the federal government elects not to intervene in cases of insurrection and tyranny, the citizens has the existing right to protect the fabrics of the US Constitution and remove insurrection from our system. Judges must abide by the law and rule accordingly because failure to do so without reprisal from the federal government is adequate reasons to exterminate those tyrants. It is the citizen's responsibility with aid to bear and use arms to keep the government in check, **District of Columbia v. Heller**, 554 U.S. 290 (2008).

"the purpose of this guaranty might be defeated altogether by the action or neglect to act of the government it was meant to hold in check."

Judge Conlogue did not need positive proof of partiality to remove Judge Irwin from the case, **Liljeberg v. Health Services Acquisition Corp, 486 US 847, 108 S. Ct. 2194 (1988).** In **Pfizer v. Lord, 456 F.2d 532 (1972),** the Court stated that, **"It is important that the litigant receive justice, but he believes that he has received justice."** These orders should be

void and these judges are incompetent and acts as tyrants. After the judge viewed my son's teeth, common-sense as well as the law mandated at minimum transfer of custody and possibly transfer to Juvenile Court. The bottom-line, no parent should have to jump trough hoops to satisfy judges when judges see neglect and poor dental care with their own eyes. The fact that the judges enjoy ruling for women regardless if it does not make common-sense, **Diezi v. Diezi, 201 Ariz. 524, 38 P.3d 1189** is not a valid reason.

CONCLUSION

I ask that this court review this Writ on the as matter of law, as the right thing to do. Mitigating insurrection by the government should be dealt with by the Federal Government and civilians (militia two or more people) should not have to remove judges that uses the Color of the State as a shield for misconduct. In my instance, Judge Irwin should not be removed at the Catholic Church that we attend, nor should I or any other civilians be faced with making such decision. Please do not let this case set precedence for judicial misconduct; and this case can negatively affect not only my son and grand children, but other families and future generations. I pray that the Arizona Superior Court Orders be void and venues and custody

be changed or sent back to the State to be changed. The integrity of the system means more than the case itself and these rulings compromise the integrity of the system.

APP 1

SUPREME COURT STATE OF ARIZONA

March 10, 2009

RE: CALVIN P ROACH v TERRI L ROACH
Arizona Supreme Court No. CV-08-0396-PR
Court of Appeals Division Two No. 2 CA-CV 08-0138 Cochise County Superior Court No. D020000410

GREETINGS:
The following action was taken by the Supreme Court of the State of Arizona on March 10, 2009, in regard to the above-referenced cause:

ORDERED: Petition for Review (Corrected Copy) = DENIED.

A panel composed of Vice Chief Justice Berch, Justice Hurwitz, and Justice Bales participated in the determination of this matter.
Record from Court of Appeals, Division Two, Tucson, was an electronic link.
Rachelle M. Resnick, Clerk
TO: Calvin P Roach
Mark Lee Williams, Law Office of Mark L William

APP 2

Jeffrey P Handler, Clerk, Court of Appeals, Division Two, Tucson West Publishing Company
Lexis Nexis chj

COURT OF APPEALS STATE OF ARIZONA
DIVISION TWO

ORDER
2 CA-CV 2008-0138, DEPARTMENT A
CAUSE D020000410
RE: CALVIN ROACH v. TERRI ROACH

The following action was taken by the Court of Appeals for the State of Arizona, Division Two on November 5, 2008.

ORDERED: Motion for Reconsideration is DENIED

Presiding Judge Howard, Judge Brammer and Judge Pelander participated in the determination of this matter.

/S/
Joseph W. Howard
Presiding Judge

Copies to:
Calvin Roach, 1777 Calle Ventana
Sierra Vista, AZ 85635

Mark L. Williams
LAW OFFICE OF MARK L. WILLIAMS
1071 N, Grand Avenue, #106
Nogales, AZ 85621

APP 4

COURT OF APPEALS STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK
OCT 2, 2009 COURT OF APPEALS
DIVISION TWO
ORDER
2 CA-CV 2008-0138, DEPARTMENT A
CAUSE D020000410
RE: CALVIN ROACH v. TERRI ROACH

It appearing to the court that the order of May 19, 2008 which is being appealed denied a change of venue, and such order not being appealable.

ORDERED: The above-entitled appeal is DISMISSED. Judges Grammer and Pelander concurring.

DATED: October 02, 2008

/S/
Joseph W. Howard
Presiding Judge

Copies to:
Calvin P. Roach, 1777 Calle Ventana
Sierra Vista, AZ 85635
Mark L. Williams, LAW OFFICE OF MARK L. WILLIAMS 1071 N. Grand Avenue, #106
Nogales, AZ 85621
Hon. James L. Conlogue, Judge Cochise County Superior Court P.O. Drawer CJ,
Bisbee, AZ 85603

Hon. Charles A. Irwin, Judge Cochise County Superior Court Division One, P.O. Drawer CK, Bisbee, AZ 85603

Denise I. Lundin, Clerk of the Court, Cochise County Superior Court P.O. Drawer CK, Bisbee, AZ 85603

(Certified Copy)

APP 6

SUPERIOR COURT OF ARIZONA
In and for the County of Cochise

CALVIN P. ROACH Petitioner, v. TERRI L. ROACH Respondent	May 19, 2008 Case No. D020000410 (926) ORDER DENYING MOTION	FILED 2008 MAY 19 PM 3:25 Denise I. Lundin Clerk of the Superior Court-SV

Denise I. Lundin
Clerk of the Superior Clerk

HONORABLE CHARLES A. IRWIN
DIVISION ONE

By: Heidi A. Tanner (5/19/2008)

Judicial Administrative Assistant

This matter having been "reassigned" to this upon the ruling by Judge Conlogue and the Court noting that Petitioner's "Motion to Change Venue — Juvenile Court" filed March 14. 2008 remains pending and the Court now having reviewed such Motion and FINDS there is no legal basis to transfer this matter to the Juvenile Court and that such Court does not have jurisdiction over the subject

matter of this case pursuant to ARS 8-202, therefore;

IT IS ORDERED: Petitioners Motion to Change Venue — Juvenile Court is summarily DENIED.

Mailed/distributed 5/20

xc: Calvin P. Roach, 1777 Calle Ventana. Sierra Vista AZ 85635

Mark Williams. Esq 1071 North Grand ,Avenue #106 Nogales AZ 85621

APP 8

SUPERIOR COURT OF ARIZONA
in and for the County of Cochise

CALVIN P. ROACH, Petitioner
vs.
TERRI L. ROACH, Respondent
Case No. D0200000410 ORDER FILED
2008 MAY 14 3:25PM

HON. JAMES L. CONLOGUE
DIVISION By: James L. Conlogue, Superior Court Judge

This matter came before the Court on Petitioner's Motion to Recuse. The Motion requests a Change of Judge for Cause. The Presiding Judge designated this Division to hear the Motion. This Court heard the matter pursuant to Rule 6. Rules of Family Law Procedure. Rule 42(f(2). Rules of Civil Procedure and A.R.S. 512·409.

Pursuant to Rule 42(f)(2)(D). the issues presented were decided by the preponderance of the evidence. As further required by Rule 42(f)(2)(D), the sufficiency of Petitioner's "cause to believe' that ,Judge Irwin was biased or prejudiced was determined bvran objective standard and not by reference to Petitioner's subjective belief.

Petitioner did not present evidence at the hearing on May 12. 2008. Instead.

Petitioner presented argument on the issues set forth in his affidavit filed in support of his Motion to Recuse. Respondents attorney, Mark Williams. presented argument in response. Mr. Williams also requested an award of attorney's fees.

Petitioner sets forth three reasons why Judge Irwin should be changed for cause. First. Judge Irwin failed to take appropriate action regarding the child's dental needs. Second, Petitioner worked against Judge Irwins re-election. Third, Petitioner believes Judge Irwin is biased against fathers and sons. Each reason will be treated separately.

DENTAL NEGLECT

Petitioner strongly believes that Respondent neglected to provide proper dental care for the parties son. Jarod. Petitioner further believes that the perceived dental neglect constitutes a crime. Since Judge Irwin denied Petitioner's Motion for Change of Custody in February. 2007. Petitioner alleges that Judge Irwin "aided and abetted" Respondent's criminal neglect.

In a similar vein, Petitioner posits that since Judge Irwin interviewed Jarod in January, 2007, Judge Irwin must have known of Jarod's dental problems. The argument follows that Judge Irwin engaged in misconduct thereafter by failing to take appropriate actions to prevent Respondent's criminal neglect.

The record reflects that Jarod has been in Petitioner's physical custody since July 29. 2007. At the hearing in January 2008 hearing, judge Irwin accepted the parties' physical custody arrangement and Jarod continued in Petitioner's custody through the present school year.

At the January, 2008 hearing, Judge Irwin found that Petitioner had not met his burden of proof on the "claim of irreparable harm." Judge Irwin then granted Petitioner leave to present further evidence on the issue prior to the end of May. When this Court asked Petitioner about the leave to present further evidence, Petitioner responded that further evidence was not necessary and he "will not jump through hoops" to satisfy Judge Irwin.

Based upon an objective standard, there is no cause to believe that Judge Irwin is biased or prejudiced in this regard. Petitioner's refusal to follow the proper procedure is not reasonable.

Petitioner presented no evidence on this issue outside his affidavit. No evidence was presented on what political activity Petitioner engaged in. No evidence was presented that Fred "German" ever spoke with Judge Irwin. No evidence was presented that Judge Irwin knew anything about Petitioner's political activity.

More importantly, Petitioner's conversation with Fred took place in November. 2006. The issue was not raised until February, 2008 after Petitioner participated in two contested hearings before Judge Irwin. Petitioner's failure to raise the issue prior to the January. 2007 hearing might be excusable. However, there is no plausible justification for the failure to raise the issue prior to the hearing in January, 2008.

Petitioner failed to meet his evidentiary burden on this issue. Further, the issue was waived and not timely raised.

BIAS AGAINST FATHERS AND SONS

Petitioner presented no evidence to support his position on this issue. The allegation is based solely on Judge Irwin's denials of Petitioner's requests. This allegation is not well grounded in fact.

Petitioner's request for attorney's fees

Petitioner did not file a response to the Motion to Recuse. Petitioner's attorney appeared at the hearing telephonically. Under the circumstances, the Court will not award Petitioner any fees regarding this limited proceeding.

IT IS THE FINDING of this Court that no grounds exist to warrant a Change of Judge Irwin for Cause.

IT IS ORDERED denying the Motion to Recuse.

IT IS FURTHER RDE.RE
rreassigning'14 proceedings.

DATED this 14th day of May, 2008.

/S/ _____
James L. Conlogue
Superior Court
Judge

mailed/distributed:
xc: Calvin P. Roach, 1777 Calle Ventana, Sierra Vista, AZ 85635
Mark L. Willams. Esq., 1071 North Grand Avenue 4106, Nogales, AZ 85621
Court Administration
Division One

APP 13

SUPERIOR COURT OF ARIZONA
COUNTY OF COCHISE

DATE JANUARY 31, 2008 FILED 2008 FEB - 6 PM 3:47
DENISE I. LUNDIN, CLERK OF THE COURT-SV
DEPUTY
Case: D020000410

MINUTE ENTRY ACTION
(178) HEARING
(398) ORDER
(926) ORDER DENYING
(925) ORDER GRANTING

JUDGE HONORABLE CHARLES A. IRWIN
DIVISION ONE
COURT REPORTER By Marianne Buckner (02-06-2008), Deputy

CALVIN P. ROACH, Petitioner
vs.
TERRI LEE ROACH, Respondent

PRESENT: Petitioner and Pro Se
Respondent Present and by Mark L. Williams, ESQ

This matter came before the Court 3:40 p.m. for Hearing Petitioner's Motion for Temporary Change of Custody.

The Court inquired of Mr. Roach as to where Jarod has been living. Mr. Roach responded to the Court and advised Jarod was living with him. Mr. Williams advised the Court that Jarod has been living with his father since August on a temporary basis until the end of the school year and then the parties are to return the parties to return to the parenting time as previously ordered by the Court.

The Court inquired of Mr. Roach as to his intent is to gain full custody and that there was never a temporary custody arrangement made.

Mr. Roach filed to strike the Respondent's response to the Petition in open Court and presented argument to the same.

It is ORDERED of the Court DENYING the Motion to Strike as the Court will hear both parties in this matter. The Court notes the Respondent's were requested to file their response by the 23rd and the response was not filed until the 28th, five days beyond the requested date. The Court's concern is in the best interest of the child and the Court will hear argument from both the Petitioner and

Respondent on whether or not custody should be changed.

Mr. Roach presented an opening statement.
Mr. Williams presented opening statement.

The Court notes that since the February 2007 ruling there were several filings in June to include a motion to change of custody and requested emergency temporary orders that were declined as the Court did not accept jurisdiction while the matter was under appeal.

The Court realizes there is a one year time period is not yet passed but based on the allegations by the petitioner of irreparable harm to the child, the Court will allow the Petitioner present evidence and the Respondent will be allowed to present evidence on issues as to why permanent custody should not be changed, based on irreparable harm.

Mr. Williams requested that rules of evidence be applied in this case. Mr. Roach responded and requested the Court Motion allow him to file a Motion to Strike the Notice of Strict Compliance to the Rules of Evidence.

It is the ORDER of the Court DENYING Mr. Roach's motion and explained that the new Family Law Rules allow the court to relax the rules of evidence for

contested issues. The Court will require the rules of evidence be followed but it is at the Court's discretion to allow evidence or not.

At the direction of the Court, CALVIN P. ROACH and TERRI LEE ROACH were duly sworn. CALVIN P. ROACH being duly sworn presented testimony on his own behalf, was questioned by the Court and cross examined. During the testimony, CALVIN P. ROACH, Petitioner's Exhibits 1 through 22 were marked and identified. Petitioner's Exhibits 1, 2, 5, 6, 7,8, 9, 12, 13, 14, 18, 20, 21, and 22 respectively, were admitted into evidence.

Mr. Williams called TERRI LEE ROACH as witness, who being previously sworn was direct examined, question by the Court, and cross examined.

During testimony of TERRI LEE ROACH, Ms. Roach disputed Petitioner's Exhibit 21 and Respondent's Exhibit A was marked, identified and admitted into evidence.

Mr. Roach presented closing argument.

Mr. Williams presented closing argument.

Based on the argument, testimony, and evidence presented this date that the parties stipulated that Jarod will remain in the Petitioner's customer until the end of the school year and the Court adopts said stipulation for the best interest of the child.

The Court further finds there is not sufficient evidence presented by the Petitioner to change permanent custody as to irreparable harm in regard to Jarod's vaccination records and the Court will wait to receive Dr. Ettinger's records. The Court GRANTS Leave to the Petitioner to produce further evidence that Jarod had not been appropriately vaccinated.

The Court further finds that based on the evidence submitted at this hearing, the Court can not find irreparable harm in regard to the Jarod's dental issue. The Court will allow the Petitioner to present creditable evidence on the issue after the extraction of the teeth are done. The creditable evidence will have to be in the form of a sworn affidavit by the doctor, a testimony of the doctor through a deposition, or the doctor subpoenaed to testify at the evidentiary hearing. The Court finds the Petitioner has not met the burden of proof in this matter is concern and will grant leave to the Petitioner to request an evidentiary hearing to support his claim of irreparable harm.

It is ORDERED of the Court the parties exchange information regarding medical and dental plans.

If is FURTHER ORDERED of the Court the parties exchange any bills incurred for medical and dental treatment for Jarod. The parties have the obligations to exchange documents in regards to shot records, dental

records, or any other medical or dental record regarding Jarod.

The Court FINDS that there is not sufficient evidence to show irreparable harm based on the skin irritation or fungus on Jarod. Both parents testified that they are aware of the rash and treatment had been given on that issue.

The Court FURTHER FINDS that Jarod received the appropriate medical care between both parties in regard to the dog bite.

It is FURTHER ORDERED by the Court that the Respondent produce records regarding Jarod's immunization through Dr. Ettinger's office.

It is FURTHERED ORDERED by the Court that the Petitioner provide the Court with evidence regarding Jarod's dental issue in a form that is acceptable to the Court.

Mr. Roach inquired of the Court in regard to Jarod's dental issue not being irreparable harm.

The Court advised Mr. Roach that he has not provided sufficient proof of irreparable harm to the Court and the Court is granting him the opportunity to produce the records.

The Court CONFIRMED the parties time agreed to by the parties.

Mr. Roach requested to file to a "Motion to Recuse US Constitution".

The Court directed Mr. Roach to file the motion with the Clerk's office.

Proceeding concluded at 5:16 p.m.

xc: Calvin P. Roach, 1777 Calle Ventana, Sierra Vista, AZ 85646
Mark I. Williams, 1071 N. Grand Ave, #105, Nogales, AZ 85621

Vol. 104 No. 2 August 1999, pp. 348-350

AMERICAN ACADEMY OF PEDIATRICS: Oral and Dental Aspects of Child Abuse and Neglect

Committee on Child Abuse and Neglect and Ad Hoc Work Group on Child Abuse and Neglect

JOINT STATEMENT OF THE AMERICAN ACADEMY OF PEDIATRICS AND THE AMERICAN ACADEMY OF PEDIATRIC DENTISTRY

ABSTRACT

In all states, physicians and dentists recognize their responsibility to report suspected cases of abuse and neglect. The purpose of this statement is to review the oral and dental aspects of physical and sexual abuse and dental neglect and the role of physicians and dentists in evaluating such conditions. This statement also addresses the oral manifestations of sexually transmitted diseases and bite marks, including the collection of evidence and laboratory documentation of these injuries.

In all 50 states, physicians and dentists are required to report suspected cases of child abuse and neglect to social service or law

enforcement agencies. Physicians receive minimal training in oral health and dental injury and disease and thus may not detect dental aspects of abuse or neglect as readily as they do child abuse and neglect involving other areas of the body. Therefore, physicians and dentists should collaborate to increase the prevention, detection, and treatment of these conditions.

PHYSICAL ABUSE

Craniofacial, head, face, and neck injuries occur in more than half of the cases of child abuse. Careful intraoral and perioral examination is necessary in all cases of suspected abuse. Some authorities believe that the oral cavity may be a central focus for physical abuse because of its significance in communication and nutrition. The injuries most commonly are inflicted with blunt trauma with an instrument, eating utensils, hands, or fingers or by scalding liquids or caustic substances. The abuse may result in contusions; lacerations of the tongue, buccal mucosa, palate (soft and hard), gingiva alveolar mucosa or frenum; fractured, displaced, or avulsed teeth; facial bone and jaw fractures; burns; or other injuries. These injuries, including a lacerated frenum, also can result from unintentional trauma. Discolored teeth, indicating pulpal necrosis,

may result from previous trauma. Gags applied to the mouth may leave bruises, lichenification, or scarring at the corners of the mouth. Multiple injuries, injuries in different stages of healing, injuries inappropriate for the child's stage of development, or a discrepant history should arouse suspicion of abuse. Age-appropriate nonabusive injuries to the mouth are common and must be distinguished from abuse based on history, the circumstances of the injury and pattern of trauma, and the behavior of the child, caregiver, or both. Consultation with or referral to a pediatric dentist is appropriate.

SEXUAL ABUSE

The oral cavity is a frequent site of sexual abuse in children. The presence of oral and perioral gonorrhea or syphilis in prepubertal children is pathognomonic of sexual abuse. When gonorrhea or syphilis is diagnosed in a child, the case must be reported to public health authorities for investigation of the source and other contacts. A multidisciplinary child abuse evaluation for the child and family should be initiated. Pharyngeal gonorrhea is frequently asymptomatic. Therefore, when a diagnosis of gonorrhea is suspected, lesions should be sought in the oral cavity, and appropriate

cultures should be obtained even if no lesions are detected.

When obtaining oral or pharyngeal cultures for *Neisseria gonorrhoeae,* the physician must specifically ask for culture media that will grow and differentiate this organism from *Neisseria meningitidis,* which normally inhabits the mouth and throat. Gonococci will not grow in routine throat cultures. Even when selective media is used, nonpathogenic *Neisseria* species can be confused with *N gonorrhoeae.* Laboratory confirmation using two different types of tests is needed to properly identify *N gonorrhoeae.* Detection of semen in the oral cavity is possible for several days after exposure. Therefore, during examination of a child who is suspected of experiencing forced oral sex, cotton swabs should be used to swab the buccal mucosa and tongue, with the swabs preserved appropriately for laboratory analysis of the presence of semen.

Unexplained erythema or petechiae of the palate, particularly at the junction of the hard and soft palate, may be evidence of forced oral sex. Although cases of syphilis are rare in the sexually abused child, oral lesions also should be sought and dark-field examinations performed. Oral or perioral condylomata acuminata, although probably most frequently

caused by sexual contact, may be the result of contact with verruca vulgaris or self-inoculation.

BITE MARKS

Bite marks are lesions that may indicate abuse. Dentists trained as forensic odontologists may be of special help to physicians for the detection and evaluation of bite marks related to physical and sexual abuse. Bite marks should be suspected when ecchymoses, abrasions, or lacerations are found in an elliptical or ovoid pattern. Bite marks may have a central area of ecchymoses (contusion) caused by two possible phenomena: 1) positive pressure from the closing of the teeth with disruption of small vessels or 2) negative pressure caused by suction and tongue thrusting. The normal distance between the maxillary canine teeth in adult humans is 2.5 to 4.0 cm, and the canine marks in a bite will be the most prominent or deep parts of the bite. Bites produced by dogs and other carnivorous animals tend to tear flesh, whereas human bites compress flesh and can cause abrasions, contusions, and lacerations but rarely avulsions of tissue. If the intercanine distance is <2.5 cm, the bite may have been caused by a child. If the intercanine distance is 2.5 to 3.0 cm, the bite was probably produced by a

child or a small adult; if the distance is >3.0 cm, the bite was probably by an adult. The pattern, size, contour, and color(s) of the bite mark should be evaluated by a forensic odontologist or a forensic pathologist if an odontologist is not available. If neither specialist is available, a pediatrician or pediatric dentist experienced in the patterns of child abuse injuries should observe and document the bite mark characteristics photographically with an identification tag and scale marker in the photograph. The photograph should be taken at a right angle (perpendicular) to the bite. A special photographic scale was developed by the American Board of Forensic Odontology (ABFO) for this purpose, as well as for documenting other patterned injuries and should be obtained in advance from the vendor (ABFO No. 2 reference scale. Available from Lightening Powder Co, Inc, 1230 Hoyt St SE, Salem, OR 97302-2121). Names and contact information for the ABFO certified odontologists may be obtained from their Web site (www.abfo.org). Written observations and photographs should be repeated daily for at least 3 days to document the evolution and age of the bite. Because each person has a characteristic bite pattern, a forensic odontologist may be able to match dental models (casts) of a suspected abuser's teeth with impressions or photographs of the bite.

Blood group substances can be secreted in saliva. DNA is present in epithelial cells from the mouth and may be deposited in bites. Even if saliva and cells have dried, they should be collected on a sterile cotton swab moistened with distilled water, dried, and placed in a cardboard specimen tube or envelope. A control sample should be obtained from an uninvolved area of the child's skin. All samples should be sent to a certified forensic laboratory for prompt analysis. The chain of custody must be maintained on all samples submitted for forensic analysis. Questions of evidentiary procedure should be directed to a law enforcement agency.

DENTAL NEGLECT

Dental neglect, as defined by the American Academy of Pediatric Dentistry, is "the willful failure of parent or guardian to seek and follow through with treatment necessary to ensure a level of oral health essential for adequate function and freedom from pain and infection." Dental caries, periodontal diseases, and other oral conditions, if left untreated, can lead to pain, infection, and loss of function. These undesirable outcomes can adversely affect learning, communication, nutrition, and other activities necessary for normal growth and development.

Failure to seek or obtain proper dental care may result from factors such as family isolation, lack of finances, parental ignorance, or lack of perceived value of oral health. The point at which to consider a parent negligent and to begin intervention occurs after the parent has been properly alerted by a health care professional about the nature and extent of the child's condition, the specific treatment needed, and the mechanism of accessing that treatment.

The physician or dentist should be certain that the caregivers understand the explanation of the disease and its implications and, when barriers to the needed care exist, attempt to assist the families in finding financial aid, transportation, or public facilities for needed services. Parents should be reassured that appropriate analgesic and anesthetic procedures will be used to assure the child's comfort during dental procedures. If, despite these efforts the parents fail to obtain therapy, the case should be reported to appropriate child protective services.

CONCLUSION

When a child has oral injuries or dental neglect is suspected, the child will benefit from the physician's consultation with a

pediatric dentist or a dentist with formal training in forensic odontology.

Pediatric dentists and oral and maxillofacial surgeons, whose advanced education programs include a mandated child abuse curriculum, can provide valuable information and assistance to physicians about oral and dental aspects of child abuse and neglect. The Prevent Abuse and Neglect Through Dental Awareness (also known as PANDA) coalitions that have trained thousands of dentists and dental auxiliaries is another resource for physicians seeking information on this issue (telephone: 573/751-6247; e-mail: moudeI@mail.health.state.mo.us).

Physician members of multidisciplinary child abuse and neglect teams should identify such dentists in their communities to serve as consultants for these teams. In addition, physicians with experience or expertise in child abuse and neglect should make themselves available to dentists and to dental organizations as consultants and educators. Such efforts will strengthen our ability to prevent and detect child abuse and neglect and enhance our ability to care for and protect children.

COMMITTEE ON CHILD ABUSE AND NEGLECT, 1998-1999

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INITIAL EXAM DATE 8-28-03

PATIENT'S NAME JARED ROACH DATE OF BIRTH 9-15-93
SINGLE MARRIED LONG TERM PARTNER DIVORCED SEPARATED WIDOWED

PATIENT'S ADDRESS P.O. BOX 3292, SIERRA VISTA, AZ PHONE 459-2224

PERSON RESPONSIBLE FOR THIS ACCOUNT TERRI ROACH PHONE 459-2224

ADDRESS SAME

EMPLOYED BY CBP BUSINESS PHONE 520 287 3607

BUSINESS ADDRESS NOGALES, AZ, 10E PATIENT'S SS# /

DENTAL INSURANCE PLAN (IF ANY) HEALTH NET REFERRED BY

PATIENT'S NAME

DENTAL HISTORY

CHIEF ORAL COMPLAINT

DATE OF LAST DENTAL EXAM ANY PREVIOUS MAJOR DENTAL TREATMENT ☐ YES ☐ NO WHEN

DO YOU HAVE OR DO YOU USE ANY OF THE FOLLOWING - INDICATE WITH A (✓)

- ☐ Teeth sensitive to cold, heat, sweets or pressure
- ☐ Bleeding gums How long
- ☐ Food impaction
- ☐ Clenching or grinding
- ☐ Burning of tongue
- ☐ Swelling or lumps in mouth
- ☐ Frequent blisters on lips or mouth
- ☐ Pain around ear
- ☐ Unusual sounds in ear while eating
- ☐ Bad breath
- ☐ Unpleasant taste
- ☐ Unfavorable dental experience
- ☐ Complications from extractions
- ☐ Periodontal treatment
- ☐ Orthodontic treatment
- ☐ Mouth breathing
- ☐ Oral habits, i.e., fingernail biting, cheek biting, etc.
- ☐ Cigarettes, pipe or cigar smoking
- ☐ Texture of toothbrush
- ☐ Frequency of brushing
- ☐ Dental Floss
- ☐ Inter dental stimulators
- ☐ Water jet device
- ☐ Disclosing tablets or solution
- ☐ Fluoride supplements
- ☐ Alcohol

MEDICAL HISTORY

PHYSICIAN'S NAME DATE OF LAST PHYSICAL EXAM AGE

DO YOU HAVE OR HAVE YOU HAD ANY OF THE FOLLOWING - INDICATE WITH A (✓)

- ☐ Allergies to drugs
- ☐ Allergies to anesthetics
- ☐ Any heart ailments
- ☐ High blood pressure
- ☐ Neurological problems
- ☐ Radiation treatments
- ☐ Excessive bleeding from cut or extraction
- ☐ Anemia or blood problems
- ☐ Arthritis
- ☐ Chronic Fatigue Syndrome
- ☐ Asthma
- ☐ Hay fever or allergies in general
- ☐ Diabetes
- ☐ Kidney problems
- ☐ Latex sensitivity
- ☐ Liver problems or hepatitis
- ☐ Malignancies
- ☐ Psychiatric care/emotional problems
- ☐ Rheumatic fever
- ☐ Sinus problems
- ☐ Immune System Disorders (AIDS, HIV, ARC)
- ☐ Stroke
- ☐ Thyroid
- ☐ Eye disorders
- ☐ Tonsilitis
- ☐ Tuberculosis
- ☐ Ulcer or colitis
- ☐ Pregnancy If so, what month
- ☐ Venereal disease
- ☐ Other

Describe any current medical treatment including drugs taken even though not listed above

APPOINTMENTS: A minimum charge will be made for failed or cancelled appointment without prior notification of 24 hours. This fee covers only a portion of the overhead such as salaries, electric, heat, etc., which still has to be paid whether you are present or not. Once an appointment is made, please remember this time has been reserved for you.

INSURANCE: To avoid misunderstandings regarding dental insurance, we wish our patients to know that all professional services rendered are charged directly to the patient and that patients are personally responsible for payment of fees. We will prepare necessary forms or reports to help you obtain your benefits from insurance companies upon receipt of full (or partial) payment of bill. We do not render our services on the basis that insurance companies will pay all our fees. Each fee is individual for the individual patient.

SIGNATURE (PARENT OR GUARDIAN, IF PATIENT IS A MINOR) DATE 8-28-03

Hardcourt Form 10-CD 800-845-5220

BEST AVAILABLE COPY

APP 31

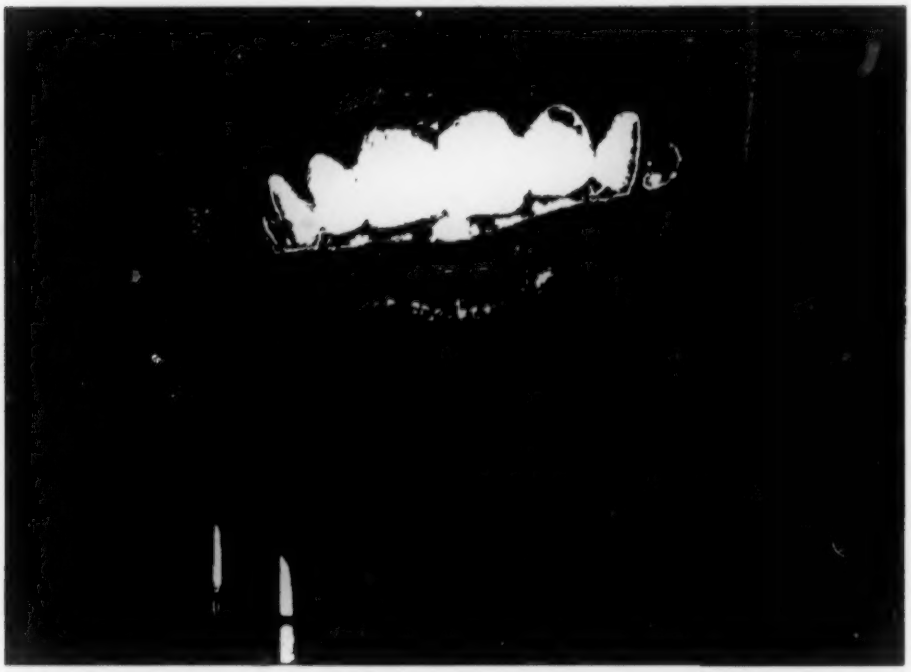
NAME JARON ROACH

MEDICAL ALERT →

DATE	TOOTH NO.	SERVICES RENDERED	ACCOUNT RECORD		
			CHARGE	PAID	BALANCE
5/26/16		2 BW, 3 PA			
		eval for ortho.			
		PDS			
5/26/17		pt present c/c heavy plaque thru out pt mouth pt says he doesn't brush real often when he did hurt often he does brush changed both pt + mother that I need great clth before examination. He has severe cl. II caries.			
		4BW			

APP 32

Court Stamp 17:29-11/08/2007



APP 33

Brian M. Lane, D.D.S.
1601 Paseo San Luis
Suite 103
Sierra Vista, Arizona 85635
(520) 417-1692

Walkout Statement

Date: 8/07/2007

Account Key	Patient Key	Invoice Date	Invoice No.
ROACA00	0001289	08-07-2007	0000283

Account Name

Calvin Roach
1777 Calle Ventana
Sierra Vista, AZ 85635

Patient Name

Jarod Roach
1777 Calle Ventana
Sierra Vista, AZ 85635

Form PAT-10

Date	Procedure	Description	Tooth	Surface	Qty	Amount
08-07-2007	D2150	Amalgam- 2 Surface	12	DO	1	$106.00
08-07-2007	D2150	Amalgam- 2 Surface	14	MO	1	$106.00

Next Appt.: 08-07-2007 at 10:00 am
Next Hygiene 11-22-2007 for rs

Provider of Service

Brian M. Lane, D.D.S. PC

Insurance Balance	Tax Amount
$106.40	$0.00
Patient Balance	Invoice Balance
41.60	206.00

Remarks: Accounts are considered current as long as monthly payments are made. Credit cards accepted.
Thank you for considering our practice for your health care needs.

Aging Acct	Current	30 Days	60 Days	90 Days	120 + Days	Due From Patient	Total Balance
Account	$0.30	$3.00	$0.60	$0.00	$0.00	$3.30	$252.90
Patient	$0.30	$3.00	$0.00	$0.00	$0.00	$3.30	$252.90
Invoice	$41.60	$0.00	$0.00	$0.00	$0.00	$41.60	$206.00

Brian M. Lane, D.D.S.
1601 Paseo San Luis
Suite 103
Sierra Vista, Arizona 85635
(520) 417-1692

Walkout Statement

Date: 8/07/2007

Account Key	Patient Key	Invoice Date	Invoice No.
ROACA00	0001289	07-02-2007	0000.005

Account Name

Calvin Roach
1777 Calle Ventana
Sierra Vista, AZ 85635

Patient Name

Jarod Roach
1777 Calle Ventana
Sierra Vista, AZ 85635

Form PAT-10

Date	Procedure	Description	Tooth	Surface	Qty	Amount
07-02-2007	D2331	Composite 2 Surface Anterior	7	DAF	1	$111.00
07-02-2007	D2332	Composite 3 Surface Anterior	10	F	1	$99.00
07-02-2007	D2332	Composite 3 Surface Anterior	4	FLDM	1	$134.00
07-02-2007	VISA	Payment Visa - Thank You			1	($176.10)
07-16-2007	DCLT994	Payment - Date Of Ck Payroll Serv			1	($153.00)

Next Appt.: 08-07-2007 at 10:00 am
Next Hygiene 11-22-2007 for rc

Provider of Services

Brian M. Lane, D.D.S. PC

Insurance Balance	Tax Amount
$0.00	$0.00
Patient Balance	**Invoice Balance**
($3.10)	($3.10)

Remarks: Accounts are considered current as long as monthly payments are made. Credit cards accepted.
Thank you for considering our practice for your health care needs.

Aged Acct	Current	30 Days	60 Days	90 Days	120 + Days	Due From Patient	Total Balance
Account	$0.30	$3.00	$0.00	$0.00	$0.00	$3.30	$252.90
Patient	$0.30	$3.00	$0.00	$0.00	$0.00	$3.30	$252.90
Invoice	($62.10)	$0.00	$0.00	$0.00	$0.00	($62.10)	($62.10)

Brian M. Lane, D.D.S.
1601 Paseo San Luis
Suite 103
Sierra Vista, Arizona 85635
(520) 417-1692

Walkout Statement

Date: 8/07/2007

Account Key	Patient Key	Invoice Date	Invoice No
ROACA00	0001289	07-31-2007	0006221

Account Name

Calvin Roach
1777 Calle Ventana
Sierra Vista, AZ 85635

Patient Name

Jarod Roach
1777 Calle Ventana
Sierra Vista, AZ 85635

Form PAT-10

Date	Procedure	Description	Tooth	Surface	Qty	Amount
07-31-2007	D2150	Amalgam 2 Surface	3	MO	1	$104.00

Next Appt 08-07-2007 at 10:00 am
Next Hygiene 11-22-2007 for rc

Provider of Services

Brian M Lane, D D S PC

Insurance Balance	Tax Amount
$63.30	$0.00
Patient Balance	**Invoice Balance**
23.30	104.00

Remarks: Accounts are considered current as long as monthly payments are made. Credit cards accepted.
Thank you for considering our practice for your health care needs.

Aged Acct	Current	30 Days	60 Days	90 Days	120 + Days	Due From Patient	Total Balance
Account	$0.30	$3.00	$0.00	$0.00	$0.00	$3.30	$252.80
Patient	$0.30	$3.00	$0.00	$0.00	$0.00	$3.30	$252.80
Invoice	$20.80	$0.00	$0.00	$0.00	$0.00	$20.80	$104.00

http://www.heraldtribune.com/article/20090508/ARTICLE/905089994/2055/NEWS?Title=Mother-is-charged-with-neglecting-her-daughter-s-teeth

Mother is charged with neglecting her daughter's teeth

Staff report

Published: Friday, May 8, 2009 at 1:00 a.m.
Last Modified: Friday, May 8, 2009 at 12:57 a.m.

MANATEE COUNTY - Police say a Palmetto mother neglected to provide her child with needed dental care, which led to severe tooth decay.



Tamika S. White, 19

Tamika S. White, 19, was arrested Wednesday on a felony neglect charge.

Her daughter, whose age was not listed, has suffered from tooth pain for more than a year,

according to a Palmetto Police Department report.

The child's grandmother urged White to take the child to the dentist.

White took the child to a dentist who told her the child had bottle mouth -- tooth decay common in infants and toddlers, the report said.

But White's Medicaid coverage would not pay for the treatment, and she refused to seek money for treatment through child-support payments from the child's father, police said.

She also did not seek another specialist who would accept Medicaid or any other treatments that would be covered, according to a report.

White was in the Manatee County jail on Thursday without bail.

Judicial Disciplinary Decision

SUMMARIES OF MAJOR CASES

http://www.supreme.state.az.us/ethics/Major_Case_Summaries.pdf.

In re Irwin JC00-0003

Judicial discipline cases decided by the Arizona Supreme Court provide guidelines for interpreting the Code of Judicial Conduct.

A superior court judge stipulated to a censure and was ordered to attend workplace gender-sensitivity training for making sexually inappropriate comments to an employee, for keeping alcohol in chambers, and for offering drinks to employees after court hours. The judge also acknowledged that two other employees had complained of what were perceived as sexually inappropriate comments. The stipulation included a provision to reopen the case if the training were not completed, if there was evidence of retaliation by the judge, or if the conduct in question was repeated. In Re Irwin, JC-00-0003 (November 29, 2000).